

The SPEECH of the LORD HIGH-STEWARD upon Proceeding to Judgment
against James Earl of Derwentwater, William Lord Widdrington, William
Earl of Nithisdale, Robett Earl of Carnwath, William Viscount Kenmure,
and William Lord Nairn.

James Earl of Derwentwater, William Lord Widdrington, William Earl of Nithisdale, Robert Earl of Carnwath, William Viscount Kenmure, William Lord Nairn.

You stand Impeach'd, by the Commons of Great Britain in Parliament assembled, of High Treason, in Traitorously imagining, and compassing the Death of his most Sacred Majesty, and in conspiring for that end to levy a bloody and destructive War against his Majesty, in order to Depose and Murder him; and in levying War accordingly, and proclaiming a Pretender to his Crown to be King of these Realms.

Which Impeachment, though one of your Lordships, in the introduction to his Plea, supposes to be out of the ordinary and common Course of the Law and Justice, is yet as much a Course of Proceeding according to the Common Law, as any other whatsoever.

If you had been Indict'd, the Indictment must have been removed and brought before the House of Lords (the Parliament sitting). In that case you had ('tis true) been accused only by the Grand Jury of one County; in the present, the whole Body of the Commons of Great Britain, by their Representatives, are your Accusers.

And this Circumstance is very observable (to exclude all possible Supposition of Hardship as to the Method of proceeding against you.) That however all great Assemblies amongst us are apt to differ on other Points, You were Impeach'd by the unanimous Opinion of the House of Commons (not one contradicting.)

They found themselves, it seems, so much concern'd in the Preservation of his most truly Sacred Majesty, and the Protestant Succession (the very Life and Soul of these Kingdoms) that they could not omit the first Opportunity of taking their proper part, in order to so signal and necessary an Act of his Majesty's Justice.

And thus the whole Body Politick of this free Kingdom has in a manner rose up in its own Defence, for the Punishment of those Crimes, which, 'twas rightly apprehended, had a direct Tendency to the everlasting Dissolution of it.

To this Impeachment you have severally pleaded, and acknowledged yourselves Guilty of the High Treason therein contain'd.

Your Pleas are accompanied with some variety of Matter, to mitigate your Offences, and to obtain Mercy.

Part of which; as some of the Circumstances said to have attended your Surrender, (seeming to be offer'd rather as Arguments only for Mercy, than any thing in Mitigation of your preceding Guilt) is not proper for me to take Notice of.

But as to the other part which is meant to extenuate the Crimes of which you are convicted, it is fit I should take this Occasion to make some Observations to your Lordships upon it; To the end that the Judgment to be given against you may clearly appear to be just and Righteous, as well as Legal; and that you may not remain under any fatal Error in respect of a greater Judicature, by reflecting with less Horror and Remorse on the Guilt you have contracted than it really deserve.

It is alledg'd by some of your Lordships, that you engag'd in this Rebellion without previous Concert or Deliberation, and without suitable Preparations of Men, Horses and Arms.

If this should be supposed true, on some of your Lordships averring it; I desire you to consider, that as it exempts you from the Circumstance of contriving this Treason, so it very much aggravates your Guilt in that part you have undoubtedly born in the Execution of it.

For it shows, That your Inclinations to Rebel were so well known (which could only be from a continued Series of your Words and Actions) that the Contrivers of that Horrid Design depended upon you, and therein judg'd rightly: That your Zeal to engage in this Treason was so strong, as to carry you into it on the least Warning, and the very first Invitation: That you would not excuse your selves by want of Preparation, as you might have done; And that rather than not have a share in the Rebellion, you would plunge your selves into it, almost naked and unprovided for such an Enterprize. In short, That your Men, Horses, and Arms were not so well prepared, as they might, and would have been on longer Warning; but your Minds were.

It is alledg'd also as an Extenuation of your Crime, that no cruel or harsh Action (I suppose is meant no Rapine or Plunder, or worse) has been committed by you.

This may, in part only, be true. But then your Lordships will at the same time consider, that the laying waste a Tract of Land bears but a little proportion in point of Guilt, compared with that Crime of which you stand convicted; an open Attempt to destroy the best of Kings, to ruin the whole Fashrick, and raze the very Foundation of a Government, the best suited of any in the World, to perfect the Happiness, and support the Dignity of Human Nature: The former Offence causes but a Mischief, that is soon recover'd, and is usually pretty much confin'd; the latter, had it succeeded, must have brought a lasting and universal Destruction on the whole Kingdom.

Besides, much of this was owing to Accident; your March was so hasty, partly to avoid the King's Troops, and partly from a vain Hope to stir up Insurrections in all the Counties you passed through, that you had not time to spread Devastation, without deviating from your main, and, as I have observ'd, much worse Design.

Farther. 'Tis very surprizing that any concern'd in this Rebellion should lay their ingaging in it on the Government's doing a necessary, and usual Act in like cases, for its Preservation; the giving Orders to confine such as were most likely to join in that Treason: 'Tis hard to believe that any one should Rebel, merely to avoid being restrain'd from Rebelling; or that a gentle Confinement would not much better have suited a crazy State of Health, than the Fatigues and Inconveniences of such long and hasty Marches in the depth of Winter.

Your Lordships rising in Arms therefore, has much more justif'd the Prudence and Fitnes of those Orders, than those Orders will in any wise serve to mitigate your Treason. Alas! happy had it been for all your Lordships had you fallen under to indulgent a Restraint!

When your Lordships shall in good earnest apply yourselves to think impartially on your Case, surely you will not yourselves believe, that 'tis possible, in the nature of the thing, to be engaged, and continue so long engaged, in such a difficult and laborious Enterprize, through Rashness, Surprize, or Inadvertency: Or that, had the Attack at Preston been less sudden, (and consequently the Rebels better prepared to receive it) your Lordships had been reduced the sooner, and with less, if not without any Bloodshed.

No, my Lords; these, and such like, are artful Colourings proceeding from Minds fill'd with Expectation of continuing in this World; and not from such as are preparing for their Defence before a Tribunal, where the Thoughts of the Heart, and the true Springs and Caules of Actions, must be laid open.

And now my Lords, having thus removed some false Colours you have used; To assist you yet farther in that necessary Work of thinking on your great Offence as you ought, I proceed to touch upon several Circumstances that seem greatly to aggravate your Crime, and which will deserve your most serious Consideration.

The Divine Virtues ('tis one of your Lordships own Epithets) which all the World as well as your Lordships acknowledge to be in His Majesty, and which you now lay claim to, ought certainly to have withheld your Hands from endeavouring to depose, to destroy, to murder that most Excellent Prince; to the Impeachment speaks, and so the Law construes your Actions; and this is not only true in the Notioe of Law, but almost always so in Deed and Reality: 'Tis a trite, but very true Remark, That there are but few Hours between Kings being reduced under the Power of Pretenders to their Crown, and their Graves. Had you succeeded, His Majesty's Case would, I fear, have hardly been an Exception to that general Rule, since 'tis highly improbable, that Flight should have saved any of that Illustrious and Valiant Family.

'Tis a farther Aggravation of your Crime, that his Majesty, whom your Lordships would have Derron'd, affected not the Crown by Force, or by the Arts of Ambition, but succeeded peaceably and legally to it; and on the Decease of her late Majesty without Issue, became undoubtedly the next in course of Descent capable of succeeding to the Crown, by the Law and Constitution of this Kingdom; as it stood declared some Years before the Crown was expressly limited to the House of Hanover. This Right was acknowledg'd, and the Descent of the Crown limited or confirmed accordingly by the whole Legislature in two successive Reigns; and more than once in the later, which your Lordships Accomplices are very far from allowing, would bias the Nation to that side.

How could it then enter into the heart of Men, to think that private Persons might with a good Conscience endeavour to subvert such a Settlement by running to tumultuary Arms; and by intoxicating the dregs of the People, with contradictory Opinions, and ~~such like~~, to make them believe that God's Providence would ever prosper such wicked, such ruinous Attempts?

Especially if in the next place it be consider'd, that the most fertile Inventions on the side of the Rebellion, have not been able to assign the least shadow of a Grievance as the Cause of it: To such poor Shifts have they been reduced on this Head, that for want of better Colours, it has been objected, in a solemn manner, by your Lordships Associates, to his Majesty's Government, That his People do not enjoy the Fruits of Peace as our Neighbours have done since the last War. Thus they first rob us of our Peace, and then upbraid us that we have it not. 'Tis a Monstrous Rebellion that can find no fault with the Government it invades, but what is the Effect of the Rebellion it self.

Your Lordships will likewise do well to consider what an additional Burthen your Treason has made necessary on the People of this Kingdom; who wanted, and were about to enjoy some Respite: To this end, 'tis well known, that all new, or encrease of Taxes, were the last Year carefully avoided, and His Majesty was contented to have no more Forces than were just sufficient to attend his Person, and shut the Gates of a few Garrisons.

But what His Majesty thus did for the Ease and Quiet of his People, you most ungratefully turn'd to his Disadvan-

tage, by taking Encouragement from thence, to endanger His and His Kingdoms Safety, and to bring Oppression on your Fellow-Subjects.

Your Lordships observe I avoid expatiating on the Miseries of a Civil War, a very large and copious Subject; I shall but barely suggest to you on that Head, that whatever those Calamities may happen to be in the present case, All who are at any Time or in any Place Partakers in the Rebellion (especially Persons of Figure and Distinction) are in some degree responsible for 'em: and therefore your Lordships must not hold your selves quite clear from the Guilt of those Barbarities which have been lately committed, by such as are engaged in the same Treason with you, and not yet perfectly reduced, in burning the Habitations of their Country-men, and thereby exposing many Thousands to Cold and Hunger in this rigorous Season.

I must be so just to such of your Lordships, as profess the Religion of the Church of Rome, that you had one Temptation, and that a great one, to engage you in this Treason, which the others had not; in that 'twas evident, Success on your Part must for ever have establish'd Popery in this Kingdom, and that probably you could never have again so fair an Opportunity.

But then, good God! how must those Protestants be cover'd with Confusion, who enter'd into the same Measures, without so much as capitulating for their Religion (that ever I could find from any Examination I have seen or heard) or so much as requiring, much less obtaining a frail Promise, that it should be Preserv'd, or even Tolerated.

It is my Duty to exhort your Lordships thus, to think of the Aggravations as well as the Mitigations (if there be any) of your Offences; and if I could have the least hopes, that the Prejudices of Habit and Education would not be too strong for the most Earnest and Charitable Entreaties; I would beg you not to rely any longer on those Directors of your Consciences, by whose Conduct you have, very probably, been led into this miserable Condition; but that your Lordships would be assisted by some of those Pious and Learned Divines of the Church of England, who have constantly bore that infallible Mark of sincere Christians, Universal Charity.

And now, my Lords, nothing remains, but that I pronounce upon you, (and sorry I am, that it falls to my Lot to do it) that terrible Sentence of the Law, which must be the same that is usually given against the meanest Offender in the like Kind.

The most ignominious and painful Parts of it are usually remitted by the Grace of the Crown to Persons of your Quality; but the Law in this Case being deaf to all Distinctions of Persons, requires I should Pronounce, and accordingly it is adjudg'd by this Court,

That you, James Earl of Derwentwater, William Lord Widdrington, William Earl of Nithsdale, Robert Earl of Carnwath, William Viscount Kenmure, and William Lord Nairn, and every of you, return to the Prison of the Tower from whence you came; from thence you must be drawn to the Place of Execution; when you come there, you must be hang'd by the Neck, but not till you be Dead; for you must be cut down alive, then your Bowels must be taken out, and burnt before your Faces; Then your Heads must be sever'd from your Bodies, and your Bodies divided each into four Quarters; and these must be at the King's disposal.

And God Almighty be Merciful to your Souls!

Die Jovis 9 Februarii, 1715.

ORDERED, by the Lords Spiritual and Temporal in Parliament Assembled, That the Thanks of this House be, and are hereby given to the Lord High-Steward for the Speech by him made this Day in Westminster-Hall, at the Time his Lordship Pronounced the Judgment of this House upon James Earl of Derwentwater, William Lord Widdrington, William Earl of Nithsdale, Robert Earl of Carnwath, William Viscount Kenmure, and William Lord Nairn, who had pleaded Guilty to the Impeachment of High Treason Exhibited by the House of Commons against them; And it is also hereby Ordered, That the Lord High-Chancellor do Cause the said Speech to be forthwith Printed and Published; And that the whole Proceedings on the said Impeachment be likewise Printed and Published.

WILLIAM COWPER.
Cler' Parl'

IN Pursuance of the foregoing ORDER, I do Appoint Jacob Tonson to Print this Speech, and do forbid any other Person to Print the same.

COWPER C.

LONDON, Printed for Jacob Tonson in the Strand. 1715. (Price 2 d.)